

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

ANTONIO D. CARROTHERS

PLAINTIFF

VERSUS

NO. 4:11CV47-D-S

DARREN COX and JOHNATHAN PHILLIPS,
In Their Individual Capacities

DEFENDANTS

JURY TRIAL DEMANDED

COMPLAINT

This is a civil action to recover actual, compensatory and punitive damages for the Defendants' use of excessive force amounting to a violation of the Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment and made actionable pursuant to 42 U.S.C. § 1983. The following averments support this civil action:

PARTIES

1. The Plaintiff, Antonio D. Carrothers, is an adult inmate currently housed at the South Mississippi Correctional Institution, Leakesville, Mississippi.

2. The Defendant, DARREN COX, was employed a correctional officer at the Mississippi State Penitentiary.

3. The Defendant, JOHNATHAN PHILLIPS, was employed as correctional officer at the Mississippi State Penitentiary.

JURISDICTION & VENUE

4. This Court has subject matter jurisdiction of this civil rights action pursuant to

28 U.S.C. § 1331 (Federal Question) and 28 U.S.C. § 1343(a)(3) (Civil Rights).

5. Venue is proper in the Northern District of Mississippi, pursuant to 28 U.S.C. § 1391, since a substantial part of the events and omissions giving rise to the claim occurred in this judicial district.

CAUSE OF ACTION

6. On, or about, June 6, 2010, Mr. Carrothers was in the prison infirmary for a routine medical exam.

7. While there, Mr. Carrothers tried to get the attention of a physician who had told Mr. Carrothers that he would get him some cream for his bad feet.

8. One of the defendants told Mr. Carrothers to go back to his room. Mr. Carrothers then asked one of the defendants to get the doctor for him.

9. One of the defendants then picked Mr. Carrothers up and threw him into the room.

10. The Defendant Cox and the Defendant Phillips then began to kick and beat Mr. Carrothers. Mr. Carrothers balled himself into a fetal position to protect himself as best he could.

11. One of the defendants then ordered Mr. Carrothers to lay down flat on his stomach and spread out his arms and legs. When Mr. Carrothers complied, one of the defendants kicked Mr. Carrothers in the jaw.

12. As a result of the beating, Mr. Carrothers suffered physical injuries, including a broken jaw.

13. After the beating, Mr. Carrothers initiated a grievance pursuant to the Mississippi Department of Corrections (“MDOC”) Administrative Remedy Program (“ARP”). Mr. Carrothers fulfilled the requirements of the ARP and is eligible to seek judicial review of this matter.

14. At all times relevant to this civil action the individual Defendants acted under color of law as correctional officers with the Mississippi Department of Corrections.

15. At all times relevant to this civil action the individual Defendants acted with reckless disregard for Mr. Carrothers’ federally protected rights.

Claim 1 (Eighth Amendment Excessive Force - Defendant Cox)

16. The Defendant Cox is liable to Mr. Carrothers for violating his Eighth Amendment right to be free from excessive force constituting cruel and unusual punishment by being beaten

17. As a direct and proximate result of the Defendant Cox’s violation of Mr. Carrothers’ Eighth Amendment rights, Mr. Carrothers suffered physical and emotional injury.

Claim 2 (Eighth Amendment Excessive Force - Defendant Phillips)

18. The Defendant Phillips is liable to Mr. Carrothers for violating his Eighth Amendment right to be free from excessive force constituting cruel and unusual punishment by being beaten

19. As a direct and proximate result of the Defendant Phillips' violation of Mr. Carrothers' Eighth Amendment rights, Mr. Carrothers suffered physical and emotional injury.

PRAYER

14. Mr. Carrothers prays for the following relief:

1. actual damages in an amount to be determined by the trier of fact;
2. compensatory damages for physical pain and suffering, emotional distress, suffering, inconvenience, mental anguish, humiliation, fear and embarrassment which Mr. Carrothers has suffered or may suffer in the future;
3. punitive damages;
4. reasonable attorney's fees; and
5. reasonable costs;

Respectfully submitted, this the 20th day of October, 2011.

/s/ Victor Israel Fleitas

VICTOR I. FLEITAS
MS BAR NO. 10259

Victor I. Fleitas, P.A.
P.O. Box 7117
Tupelo, MS 38802-7117
662.840.0270 (Phone)
662.840.1047 (Fax)
fleitasv@bellsouth.net (E-mail)

Attorney for Antonio D. Carrothers